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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,786	08/31/2001	Michel Shane Simpson	1363-007	1045
7590 07/09/2008 Michael T Sanderson Esq King & Schickli PLLc 247 North Broadway Lexington, KY 40507				
EXAMINER LY, ANH				
ART UNIT 2162		PAPER NUMBER		
NOTIFICATION DATE 07/09/2008		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

# Office Action Summary

**Application No.**

09/943,786

**Applicant(s)**

SIMPSON ET AL

**Examiner**

ANH LY

**Art Unit**

2162

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 1-20, 25, 26, 30, 31, 35 and 41 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 28, 29 and 37-40 is/are allowed.
- 6) ☒ Claim(s) 21-24, 27, 32-34 and 36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This Office Action is response to Applicants' AMENDMENT filed 05/28/2008.
2. Claims 1-20, 25-26, 30-31, 35 and 41 have been cancelled.
3. Claims 21-24, 27, 32-34 and 36 are pending in this application.  
Claims 28-29 and 37-40 are allowed.

***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 21-24, 27, 32-34 and 36 rejected under 35 U.S.C. 101 because both claims 21 and 32 are directed to "computer system" claimed invention. Both are lacking a piece of hardware or physical object to implement the steps or processes in their bodies' claimed limitation. The directory shell (the instant specification, page 7, lines 23-26; a directory shell application runs on the computer; the directory shell includes references to the directories and includes one or more categories), a directory browser (the instant specification, pages 13, lines 29-30, page 14, lines 29-31; search results returned on any given search in the directory browser (page 13, lines 29-30 and the searchable column designates an class attribute as searchable in the directory browser. The editable column designates an class attribute as editable from directory browser) and administration utility (the instant specification, page 11, lines 14-16; the

Art Unit: 2162

administration utility is used by system administrator to configuring and managing the directory shell) are software application or computer program, software per se.

"Software per se" is non-statutory under 35 USC 101 because it is merely a set of instructions without any defined tangible output or tangible result being produced.

The requirement for tangible result under 35 USC 101 is defined in *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 47USPQ2d 1596 (Fed. Cir. 1998).

**Contact Information**

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANH LY whose telephone number is (571) 272-4039 or via E-Mail: [ANH.LY@USPTO.GOV](mailto:ANH.LY@USPTO.GOV) (Written Authorization being given by Applicant (MPEP 502.03 [R-2])) or fax to **(571) 273-4039** (unofficial fax number directly to examiner's office). The examiner can normally be reached on TUESDAY – THURSDAY from 8:30 AM – 3:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **John Breene**, can be reached on **(571) 272-4107** or Primary Examiner, **Jean Fleurantin**, can be reached on **(571) 272-4035**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). Any response to this action should be mailed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, or faxed to: **Central Fax Center: (571) 273-8300**.

ANH LY /AL/  
JUN. 25<sup>th</sup>, 2008

/JEAN B. FLEURANTIN/  
Primary Examiner, Art Unit 2162